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OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20502

DATE: October 2, 1975

REPLY TO
ATTN OF: ISD

SUBJECT: OMB Circular No. A-108 Transmittal Memorandum No. 1

- Agency Liaison Representatives for Privacy Act Implementation

Attached for your information is an advance copy of Transmittal Memorandum No. 1 to OMB Circular No. A-108 which establishes the new system reporting requirements pursuant to Section 552a(o) of the Privacy Act.

This Transmittal Memo will be published in the Federal Register within the next few days.

Walter W. Haase
Walter W. Haase
Deputy Associate Director
for Information Systems

Attachment



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

September 30, 1975

CIRCULAR NO. A-108
Transmittal Memorandum No. 1

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Responsibilities for the maintenance of records
about individuals by Federal agencies

1. Purpose. This supplement to OMB Circular A-108 dated July 1, 1975 provides guidance to Federal agencies regarding the preparation and submission of reports of their intention to establish or alter systems of personal records as required by the Privacy Act of 1974 (P.L. 93-579, 5 U.S.C. 552a(o)). These procedures supersede preliminary guidance on preparing the Report on New Systems contained in the OMB Privacy Act Guidelines dated July 1, 1975 (Federal Register, July 9, 1975, p. 28977).

2. Reporting requirements.

a. A Report on New Systems must be submitted when:

(1) A new system of personal records subject to the Privacy Act is proposed. A new system of records subject to the new system reporting requirement is one for which no public notice consistent with the provisions of subsection (e)(4) is currently published in the Federal Register.

If a public notice for any specific system of records is withdrawn, suspended, cancelled, or terminated and subsequently reinstated, the subject system of records shall be considered a new system and subject to the new system reporting requirement at such time that it is reinstated.

(2) A change to a system of personal records subject to the Privacy Act is proposed. A new system report is required for any change to an existing system which meets any of the following criteria.

(No. A-108)

(a) Increase or change the number or types of individuals on whom records are maintained. Changes involving the number (rather than the types) of individuals about whom records are kept need only be reported when that change significantly alters the character and purpose of the system of records, e.g., normal increases in historical files or other increases in the number of records in a file which can be attributed to normal growth patterns need not be reported. A change resulting from a change in the scope of the population covered; e.g., a system which only covered a portion of the work force is expanded to cover all, is required to be reported.

(b) Expand the type or categories of information maintained. For example, if an employee payroll file is expanded to include data on education and training, this would be considered an expansion of the "type or categories of information" maintained, and would have to be reported.

(c) Alter the manner in which the records are organized or the manner in which the records are indexed or retrieved so as to change the nature or scope of those records. For example, the combining of two or more existing systems or splitting an existing system into two or more different systems such as might occur in a centralization or decentralization of organizational responsibilities would require a report.

(d) Alter the purposes for which the information is used. For example, a proposal that files currently used as historical military service records are to be used for making determinations on eligibility for disability benefits would require a report. A proposal to establish or change the "routine uses" of the system will not require the submission of a Report on New System if such use is compatible with the purposes for which the system is maintained; i.e., does not, in effect, create a new purpose. Any new or changed "routine use" would, however, be subject to the requirements to give 30 days prior notice of such change in the Federal Register (5 U.S.C. 552a(e)(11)).

(e) Change the equipment configuration (i.e., hardware and/or software) on which the system is operated so as to create the potential for either greater or easier access. For example, the addition of a telecommunications

(No. A-108)

capability which could increase the risk of unauthorized access would require a report.

b. Content of the Report. The agency report on proposed new systems, or proposal to modify existing systems shall consist of a brief narrative description, supporting documentation and an update of the inventory of Federal personal data systems as outlined below:

(1) Narrative Statement - A brief statement, normally not to exceed four pages in length, which:

-- describes the purposes of the system of records.

-- identifies the authority under which the system of records is to be maintained.

-- provides the agency's evaluation of "the probable or potential effect of such proposal on the privacy and other personal or property rights of individuals or the disclosure of information relating to such individuals and its effect on the preservation of the constitutional principle of federalism and separation of power," and

-- provides a brief description of steps taken by the agency to minimize the risk of unauthorized access to the system of records including a discussion of higher or lower risk alternatives which were considered for meeting the requirements of the system. A more detailed assessment of the risks and specific administrative, technical, procedural, and physical safeguards established shall be available on request.

The narrative statement should make reference, as appropriate, to information in the supporting documentation rather than restate such information.

Where changes to computer installations, communications networks, or any other general changes in information collection, handling, storage or dissemination are made which affect multiple systems of records; a single consolidated new system report may be submitted. In such cases, the narrative statement should address the overall privacy implications of the proposed change, identify all systems of records affected by the change and briefly describe any unique impacts on any specific system of

(No. A-108)

records. Supporting documentation, as defined in the subsequent paragraphs, shall be provided for each system of records.

(2) Supporting Documentation - The following shall be appended to all new system reports:

(a) An advance copy of the new or revised system notice (consistent with the provisions of 5 U.S.C. 552a(e)(4)) which the agency proposes to publish for the new or altered system(s). For proposed alterations of existing systems the documentation should be provided in the same form as the agency proposes to publish the public notice of such changes. If the agency proposes to publish changes in the form of a revision to the public notice, a copy of the proposed notices of revision should be provided. If the agency plans to supersede the entire existing notice, changes from the currently published notice shall be highlighted by underlining all new or revised portions.

(b) An advance copy of any new rules or changes to published rules (consistent with the provisions of 5 U.S.C. 552a(e)(1) and (f)) which the agency proposes to issue for the new or altered system. If no change to existing rules are required for the proposed new or altered system, the report shall so state. Proposed changes to existing rules shall be provided in a manner similar to that described for the system notices.

(c) An advance copy of any proposed rules setting forth the reasons why the system is to be exempted from any specific provision, (consistent with the provisions of 5 U.S.C. 552a(j) or (k)) if the agency head plans to invoke any exemptions for the new or altered systems.

(3) Update of Federal Inventory of Personal Data Systems - OMB in cooperation with the National Archives and Records Service is developing a perpetual inventory of all systems of records subject to the Act. The detailed plans for this inventory are still being developed. It is anticipated, however, that agencies will be requested to provide a simple report to facilitate maintenance of the Federal inventory. This portion of the report on new systems is not in effect until such time as further instructions are issued.

(No. A-108)

c. Report Format.

(1) Narrative Statement. No standard format has been established for the narrative statement. Agencies should present the information requested in the most concise fashion possible.

(2) Supporting Documentation. The format of the documentation shall, where applicable, be consistent with the publication requirements established by the Office of the Federal Register of the General Services Administration.

(3) Update of Federal Inventory of Personal Data Systems. Format being developed.

d. Distribution of Report. Two copies of each new systems report shall be submitted to each of the following:

(1) Speaker of the House.

(2) President of the Senate.

(3) The Privacy Protection Study Commission during the period of its existence as set forth in Section 5(g) of the Privacy Act.

(4) Office of Management and Budget.

e. Timing. A report on a proposed new or altered system of records shall be submitted no later than the following dates, whichever is earlier:

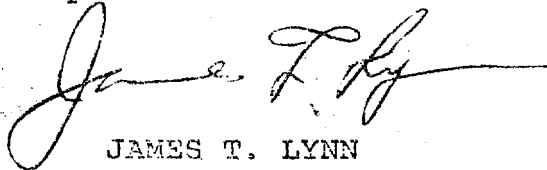
(1) Sixty (60) days before any issuance of data collection forms and/or instructions; or

(2) Sixty (60) days before any public issuance of a Request for Proposal or an Invitation to Bid for computer and/or communications systems or services intended to support the system of records.

3. Effective Date. The provisions of this Transmittal Memorandum are effective upon issuance.

(No. A-108)

4. Inquiries. Inquiries concerning this Transmittal Memorandum may be addressed to the Information Systems Division, Office of Management and Budget, Room 9002, MEOB, Washington, D.C. 20503, telephone 202 395-4314.

A handwritten signature in dark ink, appearing to read "James T. Lynn", is written over the typed name and title.

JAMES T. LYNN
DIRECTOR

(No. A-108)